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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-876]

Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India: Final Affirmative Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of fine denier polyester staple fiber (fine denier PSF) from India. The period of investigation is January 1, 2016, through December 31, 2016. For information on the estimated subsidy rates, *see* the “*Final Determination and Suspension of Liquidation*” section of this notice.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Eli Lovely or Trisha Tran, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-1593 or (202) 482-4852, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 2017, Commerce published the *Preliminary Determination*.¹ A summary of the events that occurred since Commerce published the *Preliminary Determination*,

¹ *See Fine Denier Polyester Staple Fiber from India: Preliminary Affirmative Countervailing Duty Determination*, 82 FR 51387 (November 6, 2017) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (Preliminary Decision Memorandum).

as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum² issued concurrently with this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

Scope Comments

In accordance with the Preliminary Scope Memorandum, Commerce provided parties an opportunity to provide comments on all issues regarding product coverage (*i.e.*, scope).³ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*.⁴ As a result, the scope of this investigation was modified for the preliminary determination. No further changes to the scope of the investigation were made to this final determination. For a summary of the product coverage comments and rebuttal responses

² See Commerce Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India," dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

³ See Commerce Memorandum, "Fine Denier Polyester Staple Fiber from the People's Republic of China, India, Republic of Korea, and Taiwan: Scope Comments Decision Memorandum for the Preliminary Determinations," dated May 31, 2016 (Preliminary Scope Memorandum); *see also* See Commerce Memorandum, "Due Dates for Case and Rebuttal Briefs Regarding the Scope," dated December 11, 2017.

⁴ See *Fine Denier Polyester Staple Fiber from India and the People's Republic of China: Initiation of Countervailing Duty Investigations*, 82 FR 29029 (June 27, 2017) (*Initiation Notice*).

submitted to the record for this final determination, and accompanying discussion and analysis of all comments timely received, *see* the Final Scope Decision Memorandum.⁵

Methodology

Commerce conducted this countervailing duty (CVD) investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, we determine that there is a subsidy (*i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient) and that the subsidy is specific. For a full description of the methodology underlying our final determination, *see* the Issues and Decisions Memorandum.

Scope of the Investigation

The merchandise covered by this investigation is fine denier PSF from India. For a complete description of the scope of this investigation, *see* Appendix II.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs submitted by the parties, are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix I.

Use of Adverse Facts Available (AFA)

For purposes of this final determination, we relied on facts available, and because certain respondents did not act to the best of their ability in responding to Commerce's requests for

⁵ *See* Commerce Memorandum, “Fine Denier Polyester Staple Fiber from the People’s Republic of China, India, Republic of Korea, and Taiwan: Scope Comments Decision Memorandum for the Final Determinations,” dated concurrently with this determination and hereby adopted by this notice (Final Scope Memorandum).

information, we drew an adverse inference, where appropriate, in selecting from among the facts otherwise available.⁶ A full discussion of our decision to rely on adverse facts available is presented in the “Use of Facts Otherwise Available and Adverse Inferences” section of the Issues and Decisions Memorandum.

⁶ See sections 776(a) and (b) of the Act.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, and minor corrections presented at verification, we made certain changes to the respondents' sales figures and subsidy rate calculations since the *Preliminary Determination*. For a discussion of these changes, see the Issues and Decision Memorandum and the Final Calculation Memoranda.⁷

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual rate for each producer/exporter of the subject merchandise individually investigated.

In accordance with section 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an "all-others" rate. Under section 705(c)(5)(A)(i) of the Act, the "all-others" rate excludes zero and *de minimis* rates calculated for the exporters and producers individually investigated as well as rates based entirely on facts otherwise available.

Pursuant to section 705(c)(5)(A)(i) of the Act, we have calculated the "all-others" rate using the subsidy rates of the two individually investigated respondents. The Department calculated the all-others' rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.⁸

⁷ See Commerce Memoranda, "Bombay Dyeing Final Determination Calculation Memorandum," dated January 16, 2018 (Bombay Dyeing's Final Calculation Memorandum) and "Countervailing Duty Investigation of Fine Denier Polyester Staple Fiber from India: Final Determination Calculation for Reliance Industries Limited," dated January 16, 2018 (Reliance's Final Calculation Memorandum).

⁸ With two respondents under examination, the Department normally calculates (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. The Department then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. See, e.g., *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, the Department based the all-others rate on the

Company	Subsidy Rate
Bombay Dyeing & Manufacturing Company Limited	13.38 percent
Reliance Industries Limited	27.36 percent
All-Others	24.80 percent

Disclosure

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of the date of public announcement of our final determination, in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of merchandise under consideration from India that were entered or withdrawn from warehouse, for consumption, on or after November 6, 2017, the date of publication of the *Preliminary Determination* in the *Federal Register*.

If the U.S. International Trade Commission (the ITC) issues a final affirmative injury determination, we will issue a CVD order, will reinstate the suspension of liquidation under section 706(a) of the Act, and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated

publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, please *see* the All-Others' Rate Calculation Memorandum.

duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

In the event the ITC issues a final negative injury determination, this notice serves as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: January 16, 2018.

Gary Taverman,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. List of Issues
- III. Background
- IV. Scope Comments
- V. Scope of the Investigation
- VI. Subsidies Valuation Information
- VII. Benchmarks and Interest Rates
- VIII. Use of Facts Otherwise Available and Adverse Inferences
- IX. Analysis of Programs
- X. Analysis of Comments
 - Comment 1: Whether to Countervail the AAP and DDB
 - Comment 2: Whether to Apply AFA to Reliance and Bombay Dyeing's Discovered Benefits under the TUFS
 - Comment 3: Treatment of the EPCG
 - Comment 4: Whether to Apply AFA to Bombay Dyeing's Unreported Benefits from the SHIS
 - Comment 5: Whether Commerce should countervail the FPS/IEIS
 - Comment 6: Whether Commerce should countervail the SGOM PSI
 - Comment 7: Whether to Apply AFA to the POI Value of Bombay Dyeing's Company-Wide Sales and Company-Wide Export Sales
 - Comment 8: Whether to Apply AFA to Reliance's Unreported Benefits from the AAP
 - Comment 9: Whether to Apply AFA to Reliance's Unreported Benefits from the MEIS and the MLFPS
 - Comment 10: Whether to Apply AFA to Reliance's Alleged Benefits for EOU programs
 - Comment 11: Whether to Apply AFA to Reliance's Purported Benefits for Two Income Deductions Related to SEZ programs
 - Comment 12: Whether to Apply AFA to Reliance's Purported Benefits under Section 35(1)(iv), Section 35(I)(ii), and Section 35(I)(i) Income Tax Deductions

Comment 13: Whether to Apply AFA to Reliance's Unreported Benefits for SEZ programs

Comment 14: Whether to Revise the Application of AFA Rates for SEZ programs

Comment 15: Whether to Apply Total AFA to Reliance

Comment 16: Whether to Revise the Calculation of Benefits Received under the EPCG

XI. Recommendation

Appendix II

Scope of the Investigation

The merchandise covered by this investigation is fine denier polyester staple fiber (fine denier PSF), not carded or combed, measuring less than 3.3 decitex (3 denier) in diameter. The scope covers all fine denier PSF, whether coated or uncoated. The following products are excluded from the scope:

- (1) PSF equal to or greater than 3.3 decitex (more than 3 denier, inclusive) currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 5503.20.0045 and 5503.20.0065.
- (2) Low-melt PSF defined as a bi-component polyester fiber having a polyester fiber component that melts at a lower temperature than the other polyester fiber component, which is currently classifiable under HTSUS subheading 5503.20.0015.

Fine denier PSF is classifiable under the HTSUS subheading 5503.20.0025. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigations is dispositive.

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